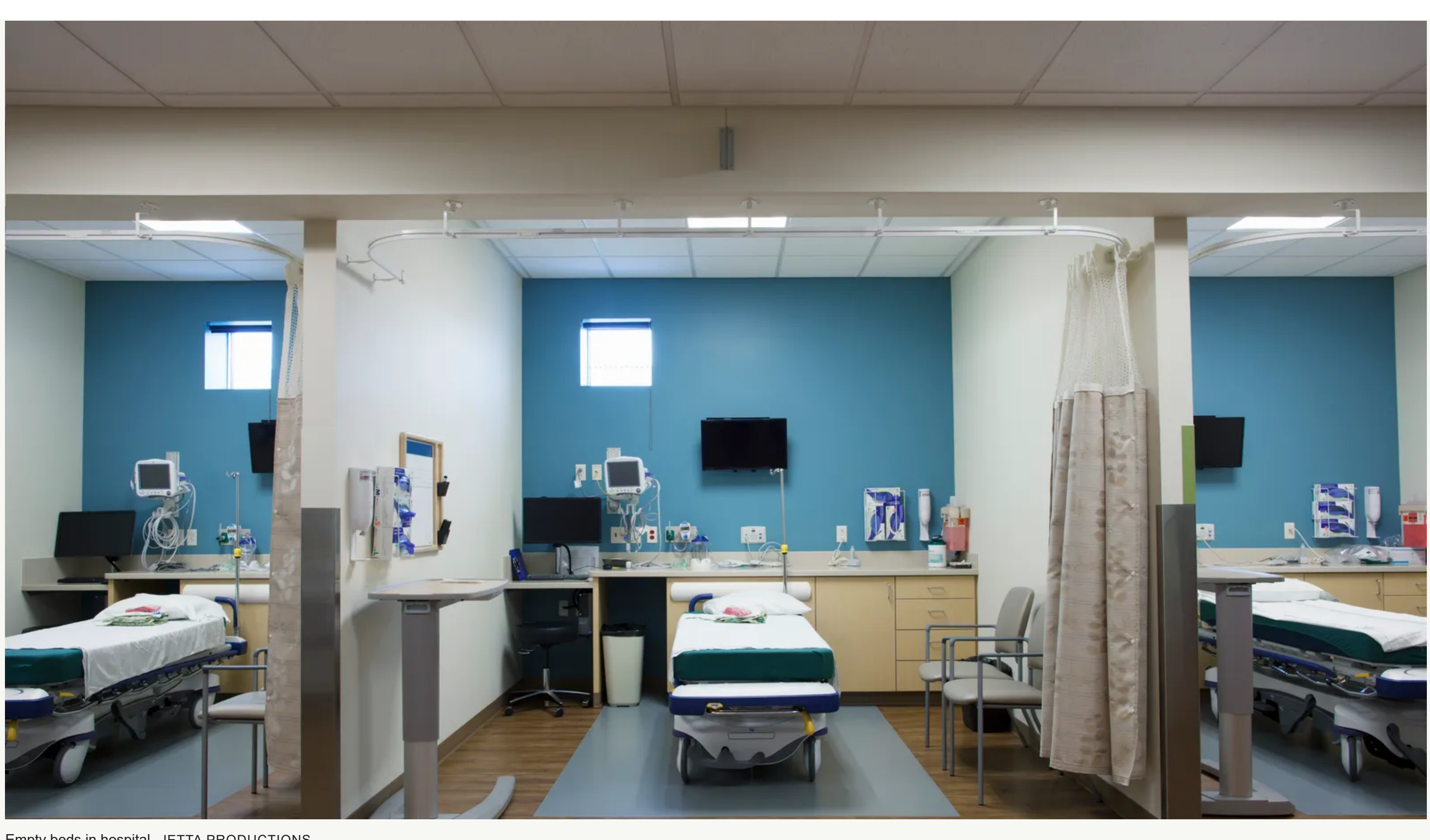

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Pregnancy Test Before Surgery: What to Know About Consent and Your Rights

Given the repeal of *Roe v. Wade*, this practice could have dangerous implications in some states.

BY REBECCA LONG AND LARISA KLEBE

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Like millions of people in the US, we've both had surgery, albeit different kinds. During a recent conversation about our experiences, we discovered an interesting commonality: We had both unknowingly been tested for pregnancy before our procedures. Although surgery is incredibly common — the average person will undergo nearly 10 surgical procedures in an 85-year lifespan — many people aren't aware they'll likely have to take a pregnancy test beforehand. But with the overturn of *Roe v. Wade* and increasing surveillance of people with uteruses, it's more important than ever to pay attention.

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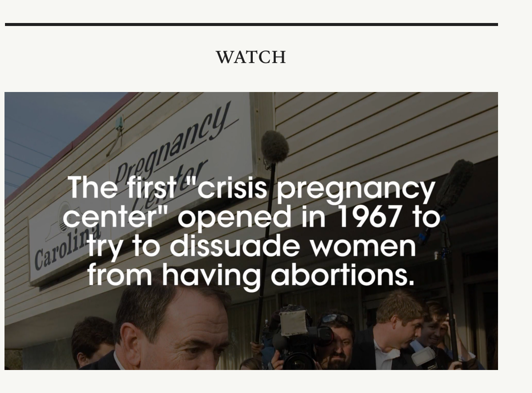

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So why *are* people tested for pregnancy before surgery? Speaking to *Teen Vogue*, Trisha Pasricha, MD, a gastroenterologist at Massachusetts General Hospital, explains that there are "actual and theoretical risks to a fetus and pregnant person" during surgery. In a 2022 STAT article, she quotes the president of the American Society of Anesthesiologists who identifies some of those real risks: preterm labor or fetal loss, particularly with abdominal and pelvic surgeries, and disruptions to fetal development with procedures involving radiation. On the flip side, other risks, like that of anesthesia, are more conceptual, as there is a lack of evidence that anesthetic drugs are harmful to a developing pregnancy.

At many facilities, patients under 18 who have begun to menstruate are also tested — and because they're minors, parents or guardians can consent on their behalf. Massachusetts General Hospital for Children, for instance, requires that "girls" be tested for pregnancy or risk the cancellation of procedures that require sedation. (The hospital does not specify how the policy is handled for minors who are trans or nonbinary.) When one of us had jaw surgery at 15, she was first asked to give a urine sample and only learned afterward that it was for a pregnancy test.

While there are evidence-based reasons for presurgical pregnancy testing, there were issues with this practice even before the fall of *Roe*, including overuse, lack of standardization, and sometimes failure to obtain explicit patient consent.

In practice, some say these tests are not always given out of medical necessity, but because of protocol. Colleen McNicholas, DO, the chief medical officer for Planned Parenthood of St. Louis and Southwest Missouri, notes that people who can't become pregnant, such as those who have had a sterilization procedure, aren't sexually active, or whose partners can't get them pregnant, are still often tested. A 2012 American Society of Anesthesiologists report found that 0.3-1.3% of preoperative pregnancy tests were positive for patients who didn't know they were pregnant. Additionally, a 2018 assessment in the journal *Obstetrics & Gynecology* suggests that verbal screening for pregnancy risk using the "Pregnancy Reasonably Excluded Guide" is effective in reducing the need for pregnancy testing. The indiscriminate administration of preoperative pregnancy tests coupled with a low percentage of positive results suggests this protocol is overused.

The more information a doctor has about a patient before surgery, the better. But Dr. McNicholas suggests the routine practice of presurgical pregnancy testing is grounded in doctors' fear of a negative impact on a developing fetus, which, while it shows appropriate consideration for patients who have a desired pregnancy, may not be relevant to all those who undergo procedures. "We also have to think about it in the context of the urgency or necessity of the procedure itself," Dr. McNicholas adds.

While this practice is ubiquitous, the manner in which these tests are given varies widely among hospitals and providers. For example, Dr. Pasricha says that if someone refuses to take a pregnancy test before a procedure, she will still proceed after discussing possible risks with the patient and documenting that they declined the test. However, she notes that another gastroenterologist may make a different decision.

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While many medical facilities have their own policies around presurgery pregnancy testing, there's no guarantee that everyone follows them. A *Journal of PeriAnesthesia Nursing* study published in 2019 reviewed adherence to a presurgery pregnancy protocol at an ambulatory surgery center for one year. The protocol included not only the administration of the test but also asking about a patient's last period and the possibility of pregnancy as well as completing proper documentation. Protocol compliance was 0.7%.

As Dr. Pasricha told WGBH in a 2022 interview, "You'd probably be hard-pressed to find [someone] who hasn't...had one of these tests before [a] procedure." Whether they knew it or not is another story. When one of us underwent elective ovarian cyst removal six months ago, she was tested for pregnancy beforehand. After developing a postoperative complication, she had emergency abdominal surgery one week later — at the same hospital — and was again handed a cup to pee in without explanation. Unsurprisingly, her pregnancy status hadn't changed a week after a gynecological procedure.

Again, while facilities may have guidelines around pregnancy testing, we know from personal experience that they don't always obtain explicit patient consent. Even if a patient is told the urine sample is being used to test for pregnancy, they may not be informed that the result of the test will be kept in their medical record. Refusal to take the test is also recorded.

In a 2009 letter to the editor in *Anesthesia & Analgesia*, three anesthesiologists advocated against universal non-gynecological presurgery pregnancy testing. They pointed out that insurance companies — and, under certain conditions, employers if the insurance is provided through work — may gain access to pregnancy test results in patients' medical records. They also mentioned that people should not but may face coercive consequences if they refuse the test, including the automatic cancellation of a procedure.

There's clearly a lot to consider when deciding whether or not to consent to a pregnancy test before surgery, but many patients aren't given the context needed to make an informed decision — if given a choice at all. We're just handed a cup to pee in.

Even before the *Dobbs* decision was released, many states in the US were effectively living in a post-*Roe* reality. Now that the landmark ruling is formally overturned, practices like presurgery pregnancy testing carry new potential consequences.

Before we explore those implications, it's important to note that our research suggests this may be the first time in US history that abortion isn't nationally protected when presurgical pregnancy testing is standard. *Roe v. Wade* was decided in 1973, and it wasn't until the late 1970s that rapid urine pregnancy tests became widely available. We didn't find any academic papers that mentioned presurgery pregnancy testing published before the 1990s. And as recently as 2009, some medical societies didn't include testing for pregnancy prior to surgery as part of their protocols. Now, most do.

This is all to say that with the repeal of *Roe*, we've entered into new territory. Dr. McNicholas says that while there are some obvious and immediate tragic effects of this decision, we won't know the true public health consequences for probably a decade. How will physicians' fears of legal consequences impact patient care? What are the repercussions of medical facilities having records of patients' pregnancy tests in states where abortion is illegal? Could a record of a patient's refusal to take a test later be used against them? While HIPAA protects patients' private medical information, it's not absolute — medical records can be subpoenaed. In a post-*Dobbs* Data for Progress survey, 41% of female respondents said they were concerned about sharing medical information while seeking reproductive care after being told about the HIPAA privacy loophole that allows for the release of medical information without a patient's consent in certain situations.

Dr. Pasricha says that patients are being put into an unnecessarily bad position because of anti-abortion legislation. She worries that people will now potentially make medical decisions that may not be in their favor, such as declining a presurgery pregnancy test, which, while not always necessary, may sometimes be important. Dr. Pasricha lays out the ethical conundrum: "How do we extricate the medical... validity of these tests from the potential harm that a patient might experience if having an unwanted pregnancy becomes documented?"

One of the downplayed but real consequences is also the erosion of public trust in medical providers and an increased sense that our bodily autonomy continues to be chipped away. When the possibility of pregnancy is enough to make patients jump through hoops to receive care, the message is that we are vessels, not people. Dr. Pasricha explains that screening is useful because, in a given population, some patients unknowingly will be pregnant. Concurrently, she acknowledges that as individuals, "patients know their situations, their bodies, and their experiences so much better than [doctors] do."

Given the current cultural climate around reproductive health care, providers may be wondering how best to approach presurgery pregnancy testing with their own patients. Dr. McNicholas points out that sometimes the medical community is asked to act as agents of the state — reporting certain information to law enforcement — and this is one of those times. The onus, she says, is "on physicians, on nurses, on those of us who have sworn an oath to care for patients, to make sure we're not doing that... and that every decision [we] make... is grounded in what is best for the patient."

Speaking from experience, what is "best for the patient" includes giving us all the information we need to make confident decisions about our health care. While our surgeries differed in almost every way, what unified our experiences was being tested for pregnancy without our knowledge and without being told the results would be part of our medical records. Dr. Pasricha says that this issue is not unique: "I've also heard from other[s] that it's just something that happens and they don't get told why. My belief is that [doctors] should be telling everybody exactly what we're doing and why for every single testing procedure."

As patients in a country that is increasingly hostile to people with uteruses, it's easy to feel disempowered. However, there are some things we can do to regain control over our bodies and our health care. Independently, both Dr. Pasricha and Dr. McNicholas advise that patients take a pregnancy test at home before a procedure so they will know their pregnancy status when they enter pre-op. This can give you peace of mind and significantly decrease the possibility of having an unexpectedly positive pregnancy test result in your medical record.

And while it *is* a practitioner's responsibility to give patients all the context they need to make informed choices about their health care, we also shouldn't be afraid to advocate for ourselves.

The next time you're told to pee in a cup, ask why.

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